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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/750,460	12/31/2003	Martin Mitchell Zentner	9D-DW-25158	4979

7590

08/08/2006

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EXAMINER

CHAUDHRY, SAEED T

ART UNIT	PAPER NUMBER
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1746

DATE MAILED: 08/08/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/750,460

Applicant(s)

ZENTNER ET AL.

Examiner

Saeed T. Chaudhry

Art Unit

1746

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) 1-9 is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 10-20 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____. |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>8/30/04</u> . | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Election/Restriction

Applicant's election with traverse of Group IV, claims 10-20 in Paper No. 05122006 is acknowledged. The traversal is on the ground(s) that the inventions set out by the claims in Groups I, II, III, IV are clearly related and applicant submitted that a through search and examination of either Group would be relevant to the examination of the other Group and would not be serious burden on the Examiner. This is not found persuasive because Inventions II and (I, III, IV) are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different designs, modes of operation, and effects (MPEP § 802.01 and § 806.06). In the instant case, the different inventions Group II, requires a method of sensing a current, which is not required by Groups (I, III, IV).

Inventions I and (III, and IV) are distinct because invention III, claims 6-9, requires a method of dishwasher monitoring by detecting an underfill condition, which is not required by Group I, claims 1-2. Further, Group I, claims 1-2, could be used to deliver liquid to an ice maker, or a washing machine.

Inventions III and IV are related as process and apparatus for its practice. The inventions are distinct if it can be shown that either: (1) the process as claimed can be practiced by another materially different apparatus or by hand, or (2) the apparatus as claimed can be used to practice another and materially different process. (M.P.E.P. § 806.05(e)). In this case the process as claimed can be practiced by another materially different apparatus such as without a controller or the apparatus as claimed can be used to practice another and materially different process such as delivering liquid to a washing machine.

The requirement is still deemed proper and is therefore made FINAL.

Drawings

The drawings are objected to because in the specification character 192 on page 11, at line 9 is recited. This element is not present in the Figure 4. Reference characters mentioned in the description must appear in the drawings. See MPEP 608.02(O)5. Correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 10-20 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. Claim 10, claims “turbine ratemeter” and claim 14, claims “means to deliver a metered amount of water”. The specification describe that the turbine ratemeter generates a square wave signal that is supplied to controller and during a fill cycle the controller receives a plurality of square waves. The specification do not provide any explanations that how the square waves are made by the turbine ratemeter or a statement of utility in the specification contains within it a connotation of how to use, and/or the art recognizes that standard modes of administration are known and contemplated.

Allowable Subject Matter

Claims 10-20 would be allowable if rewritten or amended to overcome the rejection under 35 U.S.C. § 112.

Reasons For Allowable Subject Matter

The following is an Examiner's statement of reasons for the indication of allowable subject matter:

None of the prior art discloses or suggests a dishwasher having a turbine ratemeter to deliver water to the dishwasher or means to deliver a metered amount of water and a controller configured to deliver first amount of water in first cycle; monitor to detect an underfill condition; add water upon underfill condition; deliver first amount of water in second cycle; monitor to detect an underfill condition; add water upon underfill condition; retain a second total amount of additional water added in second cycle and determining a second amount of water to deliver in a third cycle by using first and second retained amount of additional water added.

The closest cited prior art, Voza (4,408,640) discloses means for filling a dishwasher with a predetermined volume of water but fails to disclose a controller configured to determine a second amount of water to deliver in a third cycle by using first and second retained amount of additional water added

The Prior art

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Fraula et al (Re. 30,478) disclose a dishwasher having a wash chamber and a controller initiates the filling of the predetermined quantity of rinse solution i.e. 1.8 gallons into the holding tank by opening the fresh rinse supply valve.

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Andrews et al (4,277,290) disclose a dishwasher a wash sump means; flow control means for controlling water flow into the tank; and means for controlling cycling including controlling actuation of pump means.

Slocum et al (6,939,412) disclose a dishwasher having an electrical controller configured to determine whether there is a flow of fluid in the conduit based on temperature sensed by sensing device.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Saeed T. Chaudhry whose telephone number is (571) 272-1298. The examiner can normally be reached on Monday-Friday from 9:30 A.M. to 4:00 P.M.

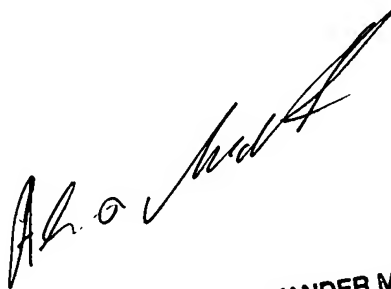
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Michael Barr, can be reached on (571)-272-1414. The fax phone number for non-final is (703)-872-9306.

When filing a FAX in Gp 1700, please indicate in the Header (upper right) "Official" for papers that are to be entered into the file, and "Unofficial" for draft documents and other communication with the PTO that are for entry into the file of the application. This will expedite processing of your papers.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (571) 272-1700.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Saeed T. Chaudhry
Patent Examiner



ALEXANDER MARKOFF
PRIMARY EXAMINER